

Message Text

PAGE 01 STATE 037598
ORIGIN TRSE-00

INFO OCT-01 ARA-10 ISO-00 L-03 /014 R

DRAFTED BY TREAS/I/IDN/JJOHNSON/OS/MFIELD
APPROVED BY ARA/ECA:STMyles
TREAS/X/XLI:DROSENbLOOM
TREAS/X/XAA:THORST
TREAS/I/IDN/FMARESCA
TREAS/I/IDN/RPELIKAN
TREAS/I/IT:GHUFBAUER

-----007159 132210Z /66

O 132133Z PEB 78
FM SECSTATE WASHDC
TO AMEMBASSY BRASILIA IMMEDIATE

C O N F I D E N T I A L STATE 037598

E.O. 11652: GDS

TAGS: EFIN

SUBJECT: GUIDANCE ON TAX MATTERS IN CONNECTION WITH
FEBRUARY VISIT OF TREASURY TEAM

REF: BRASILIA 716, JANUARY 27, 1978

1. THE FOLLOWING IS INTENDED TO SERVE AS GUIDANCE TO THE EMBASSY IN RESPONDING TO GOB QUERIES ON BILATERAL TAX MATTERS AS REPORTED IN REFTTEL.
2. WITH RESPECT TO THE TIMING ON PUBLICATION OF THE IRS RULING ON INTEREST TAX CREDITS, AND THE ONE-YEAR GRACE PERIOD FOR OUTSTANDING LOANS, FURTHER DELAY WILL NOT BE POSSIBLE. WHILE TREASURY IS WILLING TO ISSUE THE RULING AFTER, RATHER THAN BEFORE, THE VISIT OF THE TREASURY TEAM, WHICHEVER THE GOB PREFERS, WE REGRET THAT WE CANNOT CONFIDENTIAL

PAGE 02 STATE 037598

CONDUCT NEW NEGOTIATIONS ON THE RULING AT THE FEBRUARY MEETINGS.

3. BACKGROUND: TREASURY ADVISED THE GOB THAT THE IRS WOULD RULE AGAINST THE INTEREST CREDIT AS EARLY AS JUNE 1976. WHILE A RULING FAVORABLE TO BRAZIL WAS ISSUED IN NOVEMBER 1976, THE IRS NOTED THAT THE 1957 RULING ON WHICH THE FAVORABLE INTERPRETATION DEPENDED WAS UNDER REVIEW AND THAT, IF IT WERE REVOKED, THE BRAZILIAN RULING WOULD ALSO

BE REVOKED. THUS, FOR WELL OVER A YEAR, THE GOB HAS BELN AWARE THAT THE RULING COULD BE REVERSED.

4. THE SUBJECT OF THE TRANSITION PERIOD HAS BEEN RAISED REPEATEDLY WITH THE BRAZILIANS SINCE MARCH 1977, MOST RECENTLY DURING A SEPTEMBER 1977 MEETING AT TREASURY CALLED AT THE GOB'S REQUEST TO DISCUSS SOLELY THIS POINT. UNFORTUNATELY, WE HAVE NOT SEEN MUCH EVIDENCE OF A SERIOUS GOB INTENT TO RESOLVE THIS ISSUE. ALTHOUGH DORNELLES ASSERTS THAT THE SUBJECT OF REVOKING THE TAX CREDITS ON EXISTING LOANS WAS NOT RAISED AT THE SEPTEMBER MEETING, TREASURY NEGOTIATORS IN ATTENDANCE CLEARLY RECALL DORNELLES HAVING STATED THAT APPLICATION OF THE RULING TO EXISTING LOANS RAISED NO PROBLEM FOR THE GOB. RATHER, DORNELLES ARGUED FOR FURTHER DELAY SO AS TO ALLOW MORE TIME FOR BRAZIL TO CONCLUDE NEW LOANS PRIOR TO THE DATE WHEN THE RULING WOULD ENTER INTO FORCE. TREASURY EXPLAINED THAT AN ANNOUNCEMENT OF THE IRS DECISION WAS IMMINENT, BUT THAT, PROVIDED A DATE COULD BE SET PRIOR TO THE END OF NOVEMBER, THE TWO SIDES COULD MEET ONCE AGAIN TO DISCUSS HOW TO RESOLVE FINALLY THE GRACE PERIOD ISSUE. SUBSEQUENTLY, THE DEADLINE PASSED WITH NO GOB RESPONSE. AT THIS POINT, TREASURY CONCLUDED THAT THE GOB HAS BEEN CONFIDENTIAL

PAGE 03 STATE 037598

GIVEN SUFFICIENT OPPORTUNITIES TO MAKE KNOWN ITS VIEWS AND THAT FURTHER DELAY WOULD BE UNJUSTIFIED.

5. PLEASE NOTE THAT THE ONE-YEAR GRACE PERIOD PROVIDED FOR IN THE DRAFT RULING TO COVER EXISTING LOANS IS SIMILAR TO THE U.S. POLICY FOLLOWED IN OTHER RECENT FOREIGN TAX CREDIT RULINGS, SUCH AS THOSE CONCERNING OIL COMPANY PAYMENTS TO INDONESIA, SAUDI ARABIA, AND LIBYA. A ONE-YEAR GRACE PERIOD IS CONSIDERED ADEQUATE TIME TO PERMIT NECESSARY ADJUSTMENTS IN BUSINESS PRACTICES AND/OR FOREIGN LAW. TREASURY'S WILLINGNESS TO CONCEDE EVEN ONE YEAR'S GRACE IS IN MARKED CONTRAST TO RECENT GOB PRACTICE. WHEN THE WITHHOLDING RATE IN BRAZIL WAS RAISED IN AUGUST 1975 FROM 5 TO 25 PERCENT, THE GOB DID NOT ALLOW ANY GRACE PERIOD AT ALL BEFORE THE RULING WENT INTO EFFECT. END BACKGROUND.

6. AS REGARDS A POSSIBLE TAX TREATY, WE AGREE WITH DORNELLES THAT THE PROGRESS MADE IN NEGOTIATIONS TO DATE HAS BEEN CONSIDERABLE. COUNSEL ROSENBLOOM'S LETTER TO DORNELLES HAD AS ITS PURPOSES TO (A) REVIEW THE MAJOR UNRESOLVED ISSUES, (B) REITERATE THE USG POSITION ON EACH OF THESE ISSUES, AND (C) CLARIFY IN ADVANCE WHETHER THERE HAD BEEN ANY CHANGE IN THE GOB'S POSITION. WE HOPED

THEREBY TO AVOID THE FRUSTRATION OF POSSIBLE FULL-SCALE NEGOTIATIONS ON KEY POINTS WHERE THE POSITION OF BOTH

SIDES MIGHT REMAIN INFLEXIBLE.

7. HOWEVER, IN VIEW OF THE GOB'S EXPRESSED INTEREST IN RAISING THE TAX TREATY ISSUE DURING THE VISIT OF THE TREASURY MISSION, THOMAS HORST, DEPUTY DIRECTOR OF THE OFFICE OF INTERNATIONAL TAX AFFAIRS WILL GO DOWN AS A MEMBER OF THE TEAM. DURING THE DISCUSSIONS, IT SHOULD BE POSSIBLE TO DETERMINE WHETHER THERE IS A SUFFICIENT BASIS FOR RESUMING FULL-SCALE NEGOTIATIONS. BECAUSE OF CONFIDENTIAL

PAGE 04 STATE 037598

PRIOR COMMITMENTS BY TREASURY TAX PERSONNEL TO PARTICIPATE IN A COURSE ORGANIZED BY THE INTER-AMERICAN CENTER OF TAX ADMINISTRATORS IN MEXICO AND THE LIKELIHOOD OF SENATE CONSIDERATION OF A BILATERAL TAX TREATY WITH THE UK DURING THE WEEK OF THE TREASURY TALKS, IT WOULD NOT BE POSSIBLE IN ANY EVENT TO SEND A FULL USG TAX DELEGATION IN FEBRUARY.

8. IN REGARD TO THE DEFERRAL ISSUE, THE PRESIDENT'S TAX PACKAGE DOES INCLUDE A PROPOSAL TO ELIMINATE OVER THREE YEARS THE DEFERRAL OF U.S. TAX ON THE UNREMITTED EARNINGS OF CONTROLLED FOREIGN CORPORATIONS. IT IS NOT POSSIBLE TO PREDICT WHETHER THE CONGRESS WILL ACCEPT THAT PART OF THE PACKAGE, BUT IT SHOULD BE REGARDED AS A SERIOUS AS WELL AS A CONTROVERSIAL PROPOSAL. THOMAS HORST WILL DISCUSS THIS ISSUE IN GREATER DETAIL WITH INTERESTED GOB OFFICIALS UPON HIS ARRIVAL IN BRASILIA WITH THE REST OF THE TREASURY TEAM. HABIB

CONFIDENTIAL

<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 02 sep 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 13 feb 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE037598
Document Source: ADS
Document Unique ID: 00
Drafter: TREAS//IDN/JJOHNSON/OS/MFIELD
Enclosure: n/a
Executive Order: 11652 GDS
Errors: n/a
Expiration:
Film Number: n/a
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t197802117/baaabdxr.tel
Line Count: 143
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE
Message ID: 75d021cf-c288-dd11-92da-001cc4696bcc
Office: n/a
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: BRASILIA 716, JANUARY 27, 1978
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 08 jul 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3467080
Secure: OPEN
Status: NATIVE
Subject: GUIDANCE ON TAX MATTERS IN CONNECTION WITH FEBRUARY VISIT OF TREASURY TEAM
TAGS: EFIN
To: BRASILIA
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/75d021cf-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014